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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,710	03/05/2002	Juei-Hua Lin	8055/OK324	7465

7590

07/15/2003

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EXAMINER

PIZIALI, ANDREW T

ART UNIT

PAPER NUMBER

1775

5

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A9-5

**Office Action Summary**

Application No.

10/091,710

Applicant(s)

LIN, JUEI-HUA

Examiner

Andrew T Piziali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 4-30 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 30 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-4 and 31, in Paper No. 4 is acknowledged.

2. Applicant's election with traverse of Species 1, claim 3, in Paper No. 4 is acknowledged.

The traversal is on the grounds that "Insomuch as if the Examiner maintains that claim 1 is generic, and it is believed that these claims are allowable; the election of a species requirement is traversed and should be withdrawn." This is not found persuasive because claims 3 and 4 represent alternative embodiments of the claimed invention.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 5/30/2003 has been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### ***Specification***

4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification teaches that a plurality of the Figures represent drawings of the present invention (see entire specification including page 4, lines 1-21), but these Figures are marked "Prior Art." It is not clear how the Figures can represent Prior Art and the present invention. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,944,986 to Zuel.

Zuel discloses a glass product identical to the currently claimed glass product (see entire document). Zuel discloses that the skeletized structure may have openings of between about 200 to 600 angstroms (column 2, lines 12-22), which is considered to read on the currently claimed skeletized structure having openings of about 100 to about 200 angstroms. Zuel does not mention the specific density of the skeletized structure or if the skeletized structure is about 100 to about 400 angstroms, but considering the substantially identical method disclosed by Zuel (column 6, line 11 through column 7, line 50), compared to the method disclosed by the current applicants, it appears that the glass product of Zuel possesses the claimed skeletized structure.

The Patent and Trademark Office can require applicants to prove that prior art products do not necessarily or inherently possess characteristics of claimed products where claimed and prior art products are identical or substantially identical, or are produced by identical or substantially identical processes; burden of proof is on applicants where rejection based on inherency under 35 U.S.C. § 102 or on prima facie obviousness under 35 U.S.C. § 103, jointly or alternatively, and Patent and Trademark Office's inability to manufacture products or to

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obtain and compare prior art products evidences fairness of this rejection, *In re Best, Bolton, and Shaw*, 195 USPQ 431 (CCPA 1977).

7. Claims 1-3 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,120,605 to Zuel et al.

Zuel et al discloses a glass product identical to the currently claimed glass product (see entire document). Zuel et al discloses that the skeletized structure may have openings of between about 200 to 600 angstroms (column 2, lines 17-25), which is considered to read on the currently claimed skeletized structure having openings of about 100 to about 200 angstroms. Zuel et al does not mention the specific density of the skeletized structure or if the skeletized structure is about 100 to about 400 angstroms, but considering the substantially identical method disclosed by Zuel et al (column 6, line 3 through column 7, line 25), compared to the method disclosed by the current applicants, it appears that the glass product of Zuel et al possesses the claimed skeletized structure.

#### ***Response to Arguments***

8. Applicant's arguments filed 5/27/2003 have been fully considered but they are not persuasive.

The applicant claims that the method and composition used to form the glass product of the '986 and '605 patents results in a skeletized structure that has larger openings than that of the skeletized structure as claimed. The examiner respectfully disagrees. '986 discloses that the skeletized structure may have openings of between about 200 to 600 angstroms (column 2, lines 12-22), which is considered to read on the currently claimed skeletized structure having openings of about 100 to about 200 angstroms. In addition, '605 discloses that the skeletized structure

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may have openings of between about 200 to 600 angstroms (column 2, lines 17-25), which is considered to read on the currently claimed skeletized structure having openings of about 100 to about 200 angstroms.

The applicant claims that the method and composition used to produce the glass product of the '986 and '605 patents results in a skeletized structure that has approximately half the density of the skeletized structure as claimed. The applicant asserts that the difference in structure is apparent from the color of the glass of the claimed invention as opposed to the prior art. The applicant asserts that the color of the glass of the claimed invention is a purplish-brown to brown color, while the color of glass of '986 and '605 is purplish-blue to blue color. The examiner asserts that the method disclosed by the applied prior art is substantially identical to the method used to create the currently claimed glass article. The applied prior art teaches substantially identical pre-etching, diffusion etching, and anti-reflection acid solution treatment steps, as taught by the current applicant. For example, the prior art teaches that the solution potency should be varied depending on the glass, but generally the etching potency should be within a range of plus 12 to minus 12 when etched at about 45° C (column 6, lines 36-66). This potency range is identical to the potency range disclosed by the current applicant (see page 10, lines 15-18). The samples of the prior art are also etched from 35 to 50 minutes (column 6, lines 36-66), while the current applicants teach etching for 35 to 70 minutes (see page 10, lines 20-22). The examiner requests that the applicant explain in detail how the methods disclosed by the prior art differ from the method used to create the currently claimed glass article.

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Regarding the color of the glass article of the prior art, compared to the color of the glass article disclosed in the current specification, the examiner asserts that the color of the glass article is not claimed by the current applicant.

***Conclusion***

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T Piziali whose telephone number is (703) 306-0145. The examiner can normally be reached on Monday-Friday (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (703) 308-3822. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-3822.



atp  
July 1, 2003

Andrew T Piziali  
Examiner  
Art Unit 1775

  
DEBORAH JONES

SUPERVISORY PATENT EXAMINER